

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

ONE ASHBURTON PLACE ROOM 411
BOSTON MASSACHUSETTS 02108

MICHAEL J. SULLIVAN
DIRECTOR

TEL: (617) 727-8352
(800) 462-OCPF
FAX: (617) 727-6549

April 29, 1999
AO-99-07

Maria L. Hanlon, Treasurer
Committee to Elect Nancy Walser
335 Huron Avenue
Cambridge, MA 02138

Re: Book Drive for Cambridge Public Schools

Dear Ms. Hanlon:

This letter is in response to your March 18, 1999 letter requesting an advisory opinion regarding the Committee to Elect Nancy Walser's ("the Committee's") proposed book drive to benefit the Cambridge Public Schools' libraries.

You have stated that the drive would involve the Committee's seeking book "wish lists" from school librarians. The Committee would then contact mostly Cambridge parents and other interested residents, who would have an opportunity to purchase any of the books on the librarians' wish lists. Finally, the Committee would organize a collection event, where donors could come to deliver their book donations and learn more about Nancy Walser, the candidate.

You anticipate that the collection event would also provide an opportunity to seek contributions to the campaign in the form of money or pledges of assistance.

Question

Would the proposed book drive and collection event comply with the campaign finance law?

Answer

Yes, subject to certain restrictions. First, the Committee must ensure that no public resources are used in connection with the book drive and must emphasize when soliciting book donations that the City and its subdivisions have not endorsed the book drive or the candidate and are not conducting the book drive or collection event. In addition, public employees may not solicit book donations and may not be compelled to provide services to the Committee. Finally, if contributions to the Committee are solicited or received at the collection event, the event may not take place in a building or part thereof which is "occupied for municipal purposes."



Discussion

In Anderson v. City of Boston, 376 Mass. 178 (1978), appeal dismissed, 439 U.S. 1069 (1979), the Supreme Judicial Court held that the City of Boston could not appropriate funds, or use funds previously appropriated for other purposes, to influence a ballot question submitted to the voters at a State election. The court stated that the campaign finance law demonstrates an intent "to assure fairness of elections *and the appearance of fairness* in the electoral process" and that the law should be interpreted as prohibiting the use of public funds "to advocate a position which certain taxpayers oppose." 376 Mass. at 193-195 (emphasis added).

The Committee should take steps to avoid the appearance that the City is involved in a political campaign on its behalf. Therefore, the Committee must emphasize when soliciting donations to the book drive that the Committee is holding the event and that the City and its subdivisions have not endorsed the book drive or the candidate and are not in any way conducting the book drive or collection event. Also, persons soliciting donations should tell persons who might donate books that books given to the book drive would be donations to the libraries, not contributions to the Committee.¹

The Committee should also ensure that no public resources² are used on behalf of the book drive. Public employees who volunteer to assist in the collection event may do so only on their own time. If a librarian uses public resources to develop a "wish list" for the book drive, compiled on city time, the list would need to be provided to any other political committee that asks for it.

Public employees may not "directly *or indirectly* solicit or receive" any campaign contribution. See M.G.L. c. 55, § 13. You have stated that you expect contributions to the Committee to be solicited at the collection event. Public employees, therefore, may not solicit books, because persons who donate books may come to the collection event and be asked to make a contribution to a candidate. An employee may not be compelled to develop a wish list for use by the Committee or provide any other service for the Committee. See M.G.L. c. 55, § 16, which states that "[n]o person in the public service shall, for that reason, be under obligation to . . . render any political service . . ."

In addition, you should note that the campaign finance law prohibits political fundraising in buildings, or parts thereof, occupied for state, county or municipal purposes. See M.G.L. c. 55, § 14. Therefore, if contributions to the Committee are solicited or received at the collection event, the event may not take place in a building or part thereof which is "occupied for municipal purposes."

¹ A donation of a book given for the purpose of helping the school libraries, not for the purpose of supporting a candidate, is not a "contribution" to a candidate within the context of the campaign finance law. See M.G.L. c. 55, § 1, which defines a "contribution" to a candidate as "money or anything of value . . . [given] for the purpose of influencing the nomination or election" of the candidate. See also AO-95-25 (political committee may host fundraising event to assist a charitable organization if organization is separate and distinct from the committee and the committee will not be involved in the on-going operations of the charity).

² Public resources include, but are not limited to: staff time, office space, stationery and office supplies, office equipment such as telephones, copier and fax machines and computers, as well the use of a state, county or municipal seal. Even the occasional, minor use of public resources for a political purpose is inconsistent with state law and should be avoided.

Maria L. Hanlon

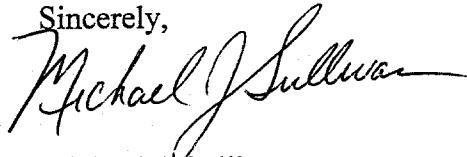
April 29, 1999

Page 3

Please note that this opinion is issued solely within the context of the Massachusetts campaign finance law³ and is provided solely on the basis of representations in your letter. I encourage you to contact us in the future if you have further questions regarding any aspect of the campaign finance law.

I have enclosed the office's *Campaign Finance Guide: Public Employees, Public Resources and Political Activity*, for information. The *Guide* discusses the prohibitions on the use of public resources and political fundraising in municipal buildings in more detail.

Sincerely,

A handwritten signature in black ink that reads "Michael J. Sullivan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael J. Sullivan
Director

Enclosure

³ Public employees who solicit donations for the libraries should contact the Ethics Commission (727-0060) to ensure compliance with the conflict-of-interest law, M.G.L. c. 268A. In addition, any person or entity soliciting for a charity may be subject to the provisions of M.G.L. c. 12, §§ 8E and 8F and M.G.L. c. 68, §§ 18-20. Therefore, you or the Committee may be subject to registration and reporting requirements administered by the Attorney General's Public Charities Division and you should contact that office, at 727-2200, for more information.